

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Postal Regulatory Commission
Submitted 6/29/2012 4:05:49 PM
Filing ID: 83355
Accepted 6/29/2012

Valassis NSA

Docket No. MC2012-14

Valassis NSA

Docket No. R2012-8

**RESPONSES OF VALASSIS DIRECT MAIL, INC. TO
NOTICE OF INQUIRY NO. 1**

(June 29, 2012)

Valassis Direct Mail, Inc. (Valassis) hereby submits its responses to the Commission's Notice of Inquiry No. 1 in this proceeding, questions 1-5, 7-10 and 12. Each question is stated verbatim, followed by the response. A declaration of Steve Mitzel, Senior Vice President/General Manager-Shared Mail, attesting to these responses, is attached.

Valassis has spent more than two years discussing and negotiating this Negotiated Service Agreement (NSA) with the United States Postal Service. In that timeframe, print circulars from national retailers have decreased, digital alternatives have become common and scaleable, the Postal Service has lost considerable volume and money, and the newspapers have created lower-cost private delivery Sunday Select programs that have grown in circulation as a viable alternative to deliver national retailer's printed circulars. Additionally, the newspapers have significantly reduced their mail volumes of their total market coverage (TMC) programs. Valassis and the Postal Service called on prospective national retailers, and they agreed that the marketplace

warranted a new program with more extensive reach and targeted more effectively to their desired demographics. The marketplace window for the Postal Service to grow mail volumes through national retailer advertising circulars is rapidly closing.

The Valassis NSA is an innovative approach that will stimulate new mail volume and allow the Postal Service the opportunity to generate new incremental contributions to its institutional costs. In a changing marketplace, it will also provide national retail advertisers an optional vehicle to effectively expand their weekend reach to consumers. However, if the Commission decides to deny this NSA, the market need will not go away. In that event, Valassis would still aggressively pursue this concept through unregulated, lower-cost private delivery, but with a broader advertiser-market objective not subject to the constraints self-imposed on this NSA.

We urge the Commission to promptly approve this NSA.

Respectfully submitted,

Steve Mitzel
Senior Vice President/General Manager-
Shared Mail
Valassis Direct Mail, Inc.
One Targeting Centre
Windsor, CT 06095
(860) 285-6257
smmitzel@valassis.com

Thomas W. McLaughlin
Burzio McLaughlin & Keegan
1054 31st Street, N.W., Suite 540
Washington, DC 20007
(202) 965-4555
bmklaw@verizon.net

Counsel for Valassis Direct Mail, Inc.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

1. Pursuant to 39 U.S.C. 3622(c)(10)(B), the Commission must determine if the Valassis NSA would “cause unreasonable harm to the marketplace.” Please identify the relevant marketplace concerning the Valassis NSA. Include a statement of supporting justification.

RESPONSE:

The relevant marketplace for this NSA is the weekend distribution of advertising circulars of durable and semi-durable goods retailers that operate in 30 or more states. The NSA itself restricts Valassis to this specific category of national retailers. These national retailers as a group overwhelmingly use weekend distribution for their general-audience print circulars, which are tied to their Saturday/Sunday sales break dates. As a practical matter, this limits the NSA to weekend distribution.

Many of these national retailers do not want full-coverage distribution to all households in the market, but prefer a more demographically-selective distribution that fits within their advertising budgets, typically covering roughly 50 percent of total households in a given market – an objective that the higher subscribership of Sunday newspapers historically met. Accordingly, these retailers have designed their inventory management, merchandising, marketing, and promotions around the weekend, their preferred time to change weekly promotions and advertise their new sales offers in relatively heavy-weight circulars.¹

Saturation mailers have so far been unable to serve this market. Mail, of course, is not delivered on Sunday, and many national retailers prefer to target their advertising

¹ Over time, many newspapers such as the Washington Post have shifted their weekend subscriber circular distribution from Sunday to Saturday mornings in order to accommodate Saturday shoppers.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

to the demographic characteristics associated with newspaper subscribers. But the greatest impediment is postal rates. Due to the high markup on Saturation rates, particularly the high pound rate, mailers are priced out of the market for those heavier weekend circulars, compared to the lower and less weight-sensitive prices offered through newspaper and private delivery. As a result, newspapers carriers and private delivery effectively have had a nearly 100% monopolistic share of this market.

The marketplace, however, is changing. With the long-term declines in Sunday newspaper circulation that have steepened over the last several years, these national retailers are finding that subscriber-only distribution is no longer as effective in reaching enough of the potential market.² It is this need for expanded reach that is driving them to look for alternatives, including accelerated migration to digital media. Some newspapers are attempting to meet this need through "Sunday Select" distribution to opt-in non-subscribers through private delivery. Likewise, the Valassis NSA is designed to offer these retailers the option to meet this need with a saturation mail program to demographically-selected zip codes and carrier routes at a price that is competitive to that of newspaper/private delivery.

² As noted in our reply comments, according to the Audit Bureau of Circulations, Sunday print circulation of the top one-hundred newspapers has declined by an average of 25 percent over just the last five years. Valassis Reply Comments, June 1, 2012, at 2.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

2. To assist the Commission in determining the Valassis NSA's financial impact on the Postal Service as required by 39 U.S.C. 3622(c)(10)(A)(i):
 - a. Please provide a quantitative analysis of the expected loss in contribution primarily attributable to the Valassis NSA (in pieces and postage pounds), including lost revenues from mailers that are not a party to the agreement. Please include all supporting workpapers.
 - b. For each contract year that the Valassis NSA is scheduled to be in effect, please provide estimates of Total Mail Coverage (TMC) volumes (in pieces and postage pounds) currently delivered by the Postal Service that are likely to be diverted to private (nonpostal) carriers primarily as a result of the Valassis NSA. Explain the basis for your estimates.

RESPONSE:

a. Valassis expects that diversion of advertising circulars from other mailers (including mailed newspaper TMC programs) into its new programs under this NSA will be negligible if not zero. There are a number of reasons that support this conclusion.

First, the NSA is confined to advertising of national durable and semi-durable goods retailers, who overwhelmingly disseminate their general-audience advertising circulars on weekends. Consequently, the new programs Valassis implements through the NSA will be designed for weekend in-home delivery.

Second, for their weekend circulars, these national retail advertisers currently use weekend newspaper distribution programs that are almost exclusively privately delivered. As NAA suggests, and as our own experience confirms, nearly all newspaper "total market coverage" (TMC) programs are midweek programs, split roughly half between mail and lower-cost private delivery. On weekends, by contrast, there are only a small handful of newspaper TMC programs in the entire country, also

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

split between mail and lower-cost private delivery.³ This nearly-exclusive midweek focus of mailed TMCs and the dearth of midweek advertising from these national retailers is confirmed by the response of The McClatchy Company, the nation's third largest newspaper publisher, to NOI No. 1:

“McClatchy’s newspapers distribute Total Market Coverage (‘TMC’) packages to non-newspaper subscribers through the mail and carrier delivery *midweek*. While TMCs may contain advertising inserts from national retailers and for durable and semi-durable goods, most of these types of midweek advertising inserts represent local grocery stores, fast food outlets and other retailers with local operations. Most of the ad inserts from national retailers and for durable and semi-durable goods are distributed within McClatchy’s Sunday newspaper editions or through our carrier-delivered ‘Sunday Select’ program targeting non-newspaper subscribers.” McClatchy Response at 2, June 26, 2012 (emphasis added).

Thus, the universe of potential diversion from existing mailed TMC programs to the Valassis NSA is quite small.⁴

Third, to the extent that any of these national retailers might distribute any of their general-audience circulars in a newspaper’s mailed TMC program during the midweek, that decision would obviously be based on a strong preference for midweek delivery versus the weekend, forgoing the availability and lower pricing of the newspaper’s weekend distribution. In fact, most newspapers do not even offer total market coverage

³ Valassis’ own shared mail programs are likewise geared toward the midweek. Of our 3.2 billion shared mail packages mailed annually, 87% are delivered Monday-Wednesday, consisting primarily of advertising for grocery, mass merchandise, drug, and food service.

⁴ The scarcity of weekend newspaper TMC programs is primarily due to the fact, as noted in our response to NOI Question 1, that most national durable and semi-durable goods retailers prefer weekend distribution to a demographically-selective audience that comprises only roughly half of total households.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

on weekends, confining advertisers to subscriber distribution, in some cases supplemented with selective distribution to non-subscribers that, in total, typically reaches no more than 50-60 percent of total households. Thus, for a hypothetical national retailer that wants to reach all households in a market, midweek TMCs would be the only newspaper option. Consequently, any such midweek circulars would not likely be attracted to a Valassis weekend NSA program, which, like the newspaper weekend offerings, will be selectively targeted, and at prices comparable to existing newspaper weekend distribution prices.

Fourth, diversion of advertising from those very few mailed weekend TMC programs would only occur if the market is one where Valassis actually initiates an NSA program. Yet even in the third year of this NSA, Valassis projects that it will have launched service in about 11 markets. The likelihood of those aligning with the few markets where newspapers have mailed weekend TMC programs is quite slim.

In sum, diversion of advertising circulars of these national retailers from mailed newspaper TMC programs will be *de minimus*.

b. As explained above, and as the Newspaper Association of America has essentially conceded, the Valassis NSA will not compete with mailed midweek TMC programs. Instead, the newspaper industry's orchestrated response is that if newspapers lose weekend advertising due to the Valassis NSA, they may opt to convert their mailed midweek TMCs to private delivery as a cost-saving measure to offset those losses. This, however, is more akin to a threatened boycott than a reasoned business response to the marketplace.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

In our response to NOI Question 9, we explain why, even in the limited number of markets where Valassis may introduce NSA programs, the newspapers' loss of advertising circulars will be nowhere as dire as they claim. Newspapers will still have substantial advantages in the weekend marketplace that will remain more attractive than the NSA for many or even most of these national retailers. Valassis does not expect to dominate this market, but only to participate in it by offering these retailers another option for expanding the reach of their advertising through the mail. The notion that these newspapers will automatically convert their midweek mailed TMC programs (which will not lose any advertising) to private delivery upon Valassis' entry in a market is simply not credible.

Moreover, as explained in our reply comments, newspapers have recently been accelerating their conversion of TMC programs to private delivery, and they will continue to do so regardless of the existence of the Valassis NSA proposal. Valassis Reply Comments at 4-8. Those conversions have nothing to do with the NSA, but are simply a reflection of the fact that private delivery has become more sophisticated and attractive, and saves significant costs compared to TMC mail distribution.

Another problem with this coordinated "I'm going to take my ball and go home" tactic is that it is speculative and too-easily self-serving, making it impossible for the

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

Commission to objectively quantify.⁵ If the newspapers were to succeed with this facile threat, it will become their “hole card” that they pull out every time the Postal Service proposes something they don’t like – whether or not the threat is legitimately tied to the proposed action.

⁵ An example of this credibility problem is the claim by the Star Tribune Media Company in its May 22 comments to the Commission that:

“Although Star Tribune would prefer to deliver its TCV [TMC product] through the mail, without the benefit of rates like those awarded to Valassis by the NSA, and, in order to compete with those rates, Star Tribune is testing other methods of delivery.”
Star Tribune comments, May 22, 2012, at 2.

Yet elsewhere, the Star Tribune has stated that “the high cost of mailing and the possibility of an end to Saturday mail deliveries by the United States Postal Service prompted the test” – with no mention of the Valassis NSA. See <http://www.kare11.com/news/article/977742/391/Unwelcome-purple-packages-from-Star-Tribune>. This illustrates why the newspaper claims that they will convert their mailed TMC programs to private delivery *because of* the NSA simply cannot be taken at face value. They are going in that direction, anyway.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

3. In its Notice, the Postal Service states “[s]aturation mailers are increasingly looking to private delivery options, and newspapers are extending their reach through Total Market Coverage and Sunday Select (distribution to non-subscribers) delivered via nonpostal carriers.” Notice at 3. Please provide any available data on the diversion of advertisement circulars that were historically delivered by the Postal Service that are now delivered by private (nonpostal) carriers.

RESPONSE:

In the case of saturation mail, we are aware through discussions with other members of the industry that lower-cost private delivery is becoming an increasingly attractive option for many mailers. A number of smaller local mailers have converted all or parts of their distribution to private delivery over the last three or so years because mail had become unaffordable. Moreover, several larger mailers are currently testing or exploring private delivery in their markets.⁶ Valassis, itself, has converted its saturation mail programs in a limited number of markets to newspaper TMC and private delivery distribution, and also does saturation private delivery in some markets. Recently, Valassis has been aggressively courted by several private delivery companies and newspapers to convert other shared mail markets to private delivery at a distribution cost well below current postal rates. Valassis could easily launch this same program filed for in this NSA cheaper, faster, and less visibly in alternate delivery, but is choosing to stay in the mail.

⁶ For example, Harte Hanks is testing audited alternate delivery in Florida, using American Newspaper Solutions (ANS). Carlos Guzman, President of the Florida operations, noted that reasons for testing alternate delivery included poor postal service, high rates, and concern about the long-term future of the Postal Service: “...we need to take a stand and explore new delivery options that protect our customers and our products. If the initial testing proves to be successful for our customers and this company, then we will explore additional alternative markets in the future.” (April 2012 INK, published by the Association of Free Community Papers).

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

The availability and nature of private delivery company services has never been more robust. Previously, the criticism of private delivery was concern about service reliability. Private delivery has always been lower cost than mail distribution. But now there are a number of growing private delivery companies whose technology, delivery methods, reliability, and delivery verification equal or exceed that offered by the Postal Service.

In our reply comments, we discussed one of these companies, CIPS Marketing Services (jointly owned by two large newspaper chains, The Tribune Company and MediaNews Group). Just two weeks ago, CIPS announced that it is opening a new East Coast headquarters to manage its expanding business:

“CIPS Marketing has signed distribution agreements with the Orlando Sentinel in Florida and the Roanoke Times in Virginia. Both agreements call for CIPS to handle delivery of these publishers’ weekly TMC programs.

Additionally, CIPS is announcing the opening of its new East Coast Headquarters located in Virginia Beach, Virginia. ... ‘Our recent new client acquisition, as well as growth in the pipeline for the coming months, catapults CIPS to now be the publishing industry’s leading provider of alternate delivery in the eastern United States. To support our presence here, and to best leverage our regional assets up and down the eastern seaboard, a dedicated operation has been developed to support our existing clients and better prepare us for continued growth’.” http://www.cipsmarketing.com/news_ECHQ.php

CIPS is not alone. There are a number of other private delivery companies that offer comparable technologies and services, including American Newspaper Solutions (ANS), ADS Media, American Circulation Innovations (ACI) – all of which tout their numerous newspaper customers but also market to saturation mailers.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

From a static perspective, it is easy to claim that private delivery is not an increasing threat to mail distribution. The Public Representative, for example, belittles private delivery as though saturation mailers were price-inelastic captives of the postal system who are merely crying wolf. The problem with simply assuming that circumstances in the past will continue unchanged into the future is that it ignores both the changes that are currently under way in the marketplace and the dynamic nature of that marketplace. What we are seeing is the intersection of two mega-trends: a dramatic and unprecedented improvement in the quality and acceptability of private delivery, against postal rates that are increasingly non-competitive with market needs.

In the case of Valassis, the proposals we have recently received from several private delivery companies are becoming increasingly attractive, offering substantial distribution cost savings compared to postal delivery. As of now, we have politely declined but have not by any means closed the door. The NSA, by contrast, represents a rare growth opportunity through postal distribution in a large market wherein we do not now have a share. If we cannot grow with the Postal Service, private delivery will be a more-than-acceptable means to support our growth.

Indeed, this regulatory proceeding, itself, underscores another important advantage of private delivery over mail as a vehicle for growth. Here, we were required to give public notice two months ago concerning the details of the NSA and Valassis' market strategy, with a final decision still perhaps weeks away. This regulatory lag has already given newspapers valuable time to prepare and put in place their own competitive counter-strategies long before Valassis can even begin to implement the NSA. Competing against entrenched newspapers that currently have a monopoly on

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

the weekend advertising of these national retailers is tough enough, as is; giving them advance public notice and the benefit of regulatory delay compounds the difficulty and can itself undermine the chances for success of this NSA.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

4. Please explain the availability and nature of enterprises in the private sector engaged in the delivery of advertisements for firms that sell or distribute semi-durable and durable goods nationally. See 39 U.S.C. 3642(b)(3)(A).

RESPONSE:

In the relevant market for weekend distribution of advertising circulars for these national retailers, service is currently provided almost exclusively by newspapers through lower-cost private carrier distribution to subscribers. In some cases, this distribution may be supplemented by private delivery companies that offer "Sunday Select" distribution to non-subscribers that have requested the advertising or through privately-delivered "market select" programs. However, we understand that some retailers have been considering non-newspaper alternatives involving other forms of private delivery as a means of broadening their advertising coverage, or are shifting some of their advertising budget from print to broadcast and the internet in the face of the declining newspaper subscriber base.

The availability and nature of private delivery company services is discussed in the response to NOI Question 3.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

5. Please provide information regarding the views of those who sell or distribute semi-durable and durable goods nationally, and/or those who sell or distribute advertising for firms that sell or distribute semi-durable and durable goods nationally on the appropriateness of the Valassis NSA. See 39 U.S.C. 3642(b)(3)(B).

RESPONSE:

In order to gauge potential interest in the NSA prior to filing, Valassis and the Postal Service in the last two years have held a series of individual meetings with representatives of national durable and semi-durable retailers to discuss the NSA concept. Due to concerns about marketplace repercussions, these discussions were held in strict confidence with the understanding that the identities of the companies and participating representatives would not be disclosed.

Common themes emerged in all of these discussions. All of these retailers have long used Sunday newspapers to distribute their weekend preprint advertising circulars to newspaper subscribers. All expressed concerns about the effects of declining newspaper circulation and response rates on the efficacy of their print advertising promotions. Several indicated that they have been exploring or implementing plans to supplement their distribution beyond subscribers or to shift their advertising budgets away from print to alternatives such as broadcast and the internet.

Reactions to the Valassis NSA concept, as expected, varied among these retailers. All were extremely supportive of having an additional option available to expand the reach of their advertising distribution beyond the declining newspaper-subscriber base. A number expressed keen interest in the concept, with the understanding that they could not formally commit to participating in the program until after its regulatory approval. It was on the basis of these expressions of interest that

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

Valassis and the Postal Service determined that the NSA concept had sufficient potential to pursue through the regulatory process.

However, because of their longstanding and ongoing customer relationships with newspapers, as well as their current dependence on newspapers as their distribution channel for weekend preprint circulars, these retailers are understandably reluctant to take a public position opposing the newspaper industry's position. Nevertheless, we can assure the Commission that they are supportive of this NSA.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

7. Please discuss the meaning of a “similarly situated mailer” under 39 U.S.C. 3622(c)(10) as it relates to the Valassis NSA.

RESPONSE:

As stated in our reply comments in this proceeding, it is Valassis’s position and belief that this NSA proposal should be made available for use by newspapers as “similarly situated” mailers.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

8. Please discuss whether each of these currently market-dominant subproducts would qualify as a competitive product under 39 U.S.C. 3642(b)(1).

- a. Saturation Flats.
- b. Saturation Parcels.
- c. High Density Flats.
- d. High Density Parcels.

RESPONSE:

Valassis does not take a position as to whether Saturation Parcels or the two High Density products would qualify as competitive products under 39 U.S.C. 3642(b)(1). We do believe that a reasonable argument can be made that Saturation Flats, or components of this product, might qualify as a competitive product. More importantly for purposes of this proceeding, it is clear that the proposed Valassis NSA would qualify.

The criteria for classifying products as market-dominant or competitive, and for adding or transferring products between these two categories, are set forth in Section 3624(b) of the PAEA. It provides that:

“(b)(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products. The competitive category of products shall consist of all other products.”

The NSA satisfies this criterion as a competitive product by definition. The market for distribution of the weekend advertising circulars of these national retailers is evolving on its own into a competitive one. Clearly, at current postal rates, the Postal Service and mailers have no meaningful marketing impact in the relevant marketplace. The agreed-

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

upon rebate pricing schedule for this NSA is, therefore, an essential element of the proposal. Even at the NSA rates, the expected market penetration will be relatively low, given the constraints in the NSA and the existing competitive advantages of newspapers and private delivery in this market. If the Postal Service were to “raise prices significantly” above those levels, this NSA and the business it will generate for the Postal Service would cease to exist.

Although not mentioned in the Commission’s question, we also note that subsection (b)(2) is not a bar to classification as a competitive product. It provides that:

“(b)(2) Exclusion Of Products Covered By Postal Monopoly.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market dominant category of mail. For purposes of the preceding sentence, the term ‘product covered by the postal monopoly’ means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).”

As the Commission is aware, saturation mail products are eligible to be delivered privately. Currently, roughly half of all saturation shopper and free newspaper publications are disseminated by private delivery. Valassis, itself, uses private delivery for a portion of its shared mail program. Moreover, newspapers are major users of lower-cost private delivery for their *selective* distribution of TMC products to non-subscribers. Even the Postal Service recognizes the substitutability of mail and private delivery for saturation programs. Its initiative to allow simplified addressing for saturation mail was undertaken in part to alleviate the burden of the postal addressing function and thereby mitigate one of the advantages of the private delivery alternatives.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

As Valassis pointed out in its reply comments, private delivery is an available alternative for this weekend mail program in lieu of this NSA. The fact that this program could lawfully be undertaken through private delivery, no different in legal effect than the privately-delivered newspaper TMC programs, demonstrates that it is not a “product covered by the postal monopoly.”

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

9. For commenters alleging that the Valassis NSA would potentially cause them unreasonable harm, please provide the portion of your annual advertising revenue for the last two fiscal years which has come from advertising inserts for durable and semi-durable goods sold by companies that operated in 30 or more states.

RESPONSE:

Although this question is not directed to Valassis, we believe it is important that the Commission consider any responses in their proper context. As phrased, the question, at most, would quantify the universe of advertising from national durable and semi-durable goods retailers – assuming that the responses are correctly limited to this group of retailers. That, however, is far different from a quantification of “unreasonable harm” due to the NSA.

To begin with, the NSA is restricted to markets where Valassis:

“has maintained an existing Standard Mail Saturation mailing program on a regular schedule, at least monthly, during the two years preceding execution of this NSA. The new mailing program cannot extend to zip codes or carrier routes that are beyond the market profile of its existing baseline mailing program (i.e., cannot extend to areas that are neither contiguous to nor within the boundaries of its baseline market footprint).” NSA Agreement, Section IV.B.

We would note that a number of the few newspapers that have already submitted early responses to this NOI operate in markets that are outside the boundaries of Valassis’ existing shared mail programs.⁷ They would not be affected by the Valassis NSA.

⁷ See, for example, Saratoga Sun (6/25/2012); Tifton Gazette (6/22/2012); Niagra Gazette (6/22/2012); Kokomo Tribune (6/21/2012); Tribune Democrat (6/20/2012); and Cumberland Times (6/21/2012). We, of course, have not yet seen the bulk of the newspaper responses that will be filed today, nor have we yet seen the responses filed under seal by the National Newspaper Association, but we expect that they, too, will include a large number of newspapers that are outside of Valassis’ current market areas.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

Even in existing Valassis markets, the NSA imposes constraints that will limit the number of markets where Valassis could expect to successfully launch a program under the NSA. The NSA restriction to a subset of advertisers is itself a limiting factor, as Valassis will not be able to “fill the boat” with other non-qualifying advertising. Moreover, because the NSA rebates only apply to mail pieces weighing more than four ounces, Valassis will have to convince retail advertisers who have long relied on newspapers of the advantages of saturation mail, and will need to bring three or more such advertisers together on a common distribution footprint for mail delivery over a two-day window.

The focus on total advertising from these national retailers also assumes that it will all be up for grabs under the NSA. In fact, newspapers will continue to have a number of advantages in the marketplace and will be in a position to respond strongly to the competition. Some retailers will continue to prefer the perceived demographics of newspaper subscribers. Some will prefer the guaranteed time of delivery that private delivery offers compared to mail. Some will simply prefer to stay with their traditional distribution rather than switch to a new distribution format. Even as to pricing, the competitive benchmark is not postal rates but the substantially lower costs of newspaper private delivery. The NSA rebate structure will simply allow Valassis to offer prices that are competitive within that marketplace (and still provide a substantial contribution to the Postal Service).

In sum, while Valassis believes that it can successfully implement this NSA concept, the impact on the marketplace will be nowhere near the dire scenarios hypothesized by the newspapers.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

10. For commenters alleging that the Valassis NSA would cause a net financial loss to the Postal Service due to lost TMC revenue, please provide the number of pieces and total postage pounds of TMC advertising inserts displaying durable and semi-durable goods sold by companies operating in 30 or more states, which, during the last 12 months, your organization:

- a. Distributed via the Postal Service; and/or
- b. Distributed via private delivery carriers or through other delivery methods.

As used in this question, the term “advertising inserts” refers to advertising that is separate and physically segregated from a publication.

RESPONSE:

Although this question is not directed to Valassis, it is an important question that goes to the issue of potential diversion of national durable and semi-durable goods retailer advertising inserts from existing mailed newspaper TMC programs to the Valassis NSA. To date, however, the newspaper responses to the NOI have not addressed this question. Instead, they have merely quantified such advertising in relation to their *total* newspaper advertising revenues, rather than identifying the portion (if any) that is currently carried as inserts in their mailed TMC programs.

An example of the problems with assessing the newspaper responses to this question is the response of Tribune Company, filed today. There, the Tribune states that:

“For fiscal year 2011, we estimate that we distributed 323 million TMC advertising packages displaying durable and semi-durable goods from national retailers via the Postal Service and 145 million packages via private delivery carriers or through other delivery methods.” Tribune Response at 2.

What this ignores is the Tribune Company’s ongoing conversion of its TMCs from mail to private delivery just since the end of fiscal year 2011. On January 18, 2012, CIPS

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

Marketing Services (which is half-owned by the Tribune) announced on its website that the previously-mailed TMC program of the Tribune's Hartford Courant was being converted to private delivery.⁸ And, just two weeks ago, CIPS announced conversion of the Orlando Sentinel's TMC program from mail to private delivery. *Id.* These recent conversions to private delivery have been undertaken without regard to the Valassis NSA. Moreover, they signal that the Tribune's newspapers are likely to undertake additional conversions in the future, whether or not Valassis were to introduce an NSA program in their markets.

In any event, as we explained in response to Question 2.a., even if some newspaper midweek TMC programs currently carry some of this kind of national retail advertising, it is unlikely to be subject to diversion to Valassis' weekend NSA program.

⁸ See <http://www.cipsmarketing.com/news-and-events.php>, announcing this and other newspaper TMC conversions to private delivery.

RESPONSE OF VALASSIS DIRECT MAIL, INC. TO
COMMISSION NOTICE OF INQUIRY NO. 1

12. May qualifying mail pieces sent under the Valassis NSA be tailored to specific markets or must the identical mail piece be sent to all markets included in a mailing?

RESPONSE:

The reference to “identical mail piece” is somewhat ambiguous. The “mail pieces” will not be identical in all markets. Valassis anticipates that the number and mix of advertiser inserts within an NSA mail piece may vary from market to market. To the extent the question might refer to “advertising inserts” rather than “mail pieces,” the advertising content of inserts will be at the discretion of the retailer, and may vary by market or region of the country.